IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1537 of 2003

Between:

1. Senior Entomologist, Urban Malaria Scheme, Khammam.
2. District Malaria Officer,Bhadrachalam, Khammam District
3. District Medical and Health Officer, Khammam.

..... PETITIONERS

AND

1. N.Janardhana Chary
2. P.Krishnaiah
3. K.Narsimha Chary
4. Y.Subbaraju
5. G.V.Ramanamurthy
6. A.Maheswar Rao
7. G.Venkata Reddy
8. B.Murali

9. B.V.V. Ramana Murthy

10.N.Ch.S.V.S. Charyulu,

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of ceritiorari and to call for records connected with the order dated 27-8-2001 in O.A.No.5855 of 2001 on the file of Hon'ble A.P. Administrative Tribunal, Hyderabad and to quash or set aside the same as erroneous and contrary to law.

Counsel for the Petitioner:GP FOR SERVICES I

Counsel for the Respondent No.: M/S CHINNA BABA,SRIKALA K

The Court made the following :

ORDER: (Per the Hon'ble Sri Justice G.Bikshapathy)

This Writ Petition is filed by the petitioner challenging the order dated 27-8-2001 in O.A.No. 5855 of 2001 on the file of the A.P.Administrative Tribunal, Hyderabad.

2. Respondents are applicants before the Tribunal. They were initially appointed on daily wage basis in the year 1980. Since, they worked for more than 15 years and when their services were not regularized, they approached the Tribunal for regularization of their services. The Tribunal passed an order directing the petitioners herein to take appropriate action for payment of salaries to the respondents. However, the case of the respondents was rejected by the authorities, vide order dated 22-11-1995. As that order has become final, the services of the respondents were terminated. Aggrieved by the said order of termination, the respondents herein approached the Industrial Tribunal in Industrial Dispute Nos. 271 to 278 of 1995. The learned Industrial Tribunal adjudicated the matter and set aside the orders of termination and directed the management to reinstate the respondents into service without back wages. The said Award was implemented by the Government by issuing G.O.Rt.No.489, HM and FW (J2), Department, dated 4-5-2001. Accordingly, the Director of Medical and Health Services reinstated the petitioners into service by order dated 12-7-2001. But, however, on 19-7-2001 another order was issued, by which, the respondents were sought to be paid daily wages. The said order was challenged before the Tribunal in O.A.No.5855 of 2001. The Tribunal disposed of the said O.A. by holding that in case the applicants have

been permitted to join duty by virtue of the proceedings dated 12-7-2001 and if they are actually discharging their duties, it directed the officials of the Government to take appropriate further action for payment of salaries to the respondents within a period of two weeks from the date of receipt of its order. Against the said order the Government filed a review application in O.A.No.5855 of 2001. But, the said review petition was also dismissed confirming the order in the said O.A.. Therefore, the present writ petition has been filed by the Government.

3. The learned Government pleader appearing for the petitioners submits that at no point of time the respondents were given regular scales of pay and even prior to their termination they were working on daily wages. In such a situation, they are only entitled for daily wages even after reinstatement and it is not open for them to claim regular scales of pay. Therefore, the order of the Tribunal is liable to be set aside.

4. We have heard the learned Government Pleader for petitioners as well as the learned counsel for respondents.

5. The Tribunal having considered the matter with reference to the proceedings issued by the District Medical and Health Officer, Khammam, dated 12-7-2001 and 19-7-2001 held that the respondents are entitled for salaries, as per the directions in the order, dated 19-7-2001. It is also seen from the order of the Tribunal that no where it was mentioned that they are entitled for daily wages. Having served for more than 20 years by the date of their reinstatement, payment of daily wages is absolutely illegal and arbitrary. Be that as it may, since, the consequential order issued by the District Medical and Health Officer, Khammam in pursuance of the order issued by the Government, stipulates that the respondents are entitled for the salary, in the pay scales, attached to the post held by them.

6. Thus, the Tribunal after considering the matter, held as follows: -

> *"In the facts and circumstances of the case and considering the submissions made, in case the applicants have been permitted to join duty by virtue of the proceedings dated 12-7-2001 and if they are actually discharging their duties, the official respondents are directed to take appropriate further action for payment of salaries to them within a period of two weeks from the date of receipt of this order".*

7. Even in the review petition No. 3177 of 2001 the Tribunal has clarified the

situation by observing as follows:

> *"A perusal of the proceedings dated 19-7-2001 issued by the District Medical &Health Officer, Khammam referred to supra shows that no-where in the said proceedings the District Medical and Health Officer did say that based on the Award passed by the Industrial Tribunal-cum-Labour Court, Warangal the Applicants in the O.A.are entitled for daily wages only in the category of 'Literary Field Worker'.*
>
> *This Tribunal issued the following directions in O.A.No. 5855 of 2001 on 27-8-2001:-*
>
> *"In case the Applicants have been permitted to join duty by virtue of the proceedings dated 12-7-2001 and if they are actually discharging their duties, the official Respondents are directed to take appropriate further action for payment of salaries to them within a period of payment of salaries to them within a period of two weeks from the date of receipt of this Order".*
>
> *If that is so, it cannot be said that this Tribunal issued a different direction other than what is contained both in the order dated 12-7-2001 and the subsequent order dated 19-7-2001 issued by the District Medical and Health Officer referred to supra, though the order dated 19-7-2001 was not placed before this Tribunal at the time when the Judgment was rendered by this Tribunal on 27-8-2001 in O.A.No. 5855 of 2001. The word 'salary' cannot be confused with that of wage' as both convey different meaning. Nothing is brought to our notice that the proceedings dated 12-7-2001 and 19-7-2001 issued by the District Medical and Health Officer are modified or rescinded subsequently. In this view of the matter, we are of the considered opinion that there is no apparent error in the judgment rendered by this Tribunal in O.A.No. 5855 of 2001 on 27-8-2001. Thus, the Review M.A. is dismissed. No costs".*

8. Thus, we find no merit in the Writ Petition filed by the Government.

9. Accordingly, the Writ Petition is dismissed. No order as to costs.

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G.Bikshapathy,J.

_____

P.S.Narayana, J.

15th March, 2005

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Senior Entomologist, Urban Malaria Scheme, Khammam.
2. The District Malaria Officer,Bhadrachalam, Khammam District
3. The District Medical and Health Officer, Khammam.
4. 2 CCs to G.P. for Services I, High Court Buildings, Hyderabad

(OUT)

5. 2 CD copies

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

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